IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 17578 of 2003

Between:

P.G. Krishna Reddy @ P.G. Krishnamurthy Reddy,

S/o. Narayana Reddy, aged about 53 years,

Resident of Peddakota village, Tadimarri Mandal,

Ananthapur District.

..... PETITIONER

AND

1. The Revenue Divisional Officer,

Dharmavaram, Ananthapur District.

2. The Mandal Revenue Officer,

Tadimarri Mandal, Ananthapur District.

3. The Mandal Revenue Inspector,

Office of the Mandal Revenue Office,

Tadimarri Mandal, Ananthapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of

Writ of Mandamus declaring the Proceedings of the second respondent Notice dated 16.8.2003 as illegal, arbitrary, without jurisdiction and consequently direct the Respondents to act in accordance with law as per the orders of the Hon'ble Junior Civil Judge, Dharmavaram, Ananthapur District in O.S. No.262 of 2002.

Counsel for the Petitioner: MR.E.MADAN MOHAN RAO

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

The Court made the following:

ORDER:

Though the Interlocutory Applications being WPMP No.21878 of 2004 and WVMP No.1631 of 2004 are listed before this Court, with the consent of the learned Counsel for the petitioner and learned Assistant Government Pleader for Revenue (General), the writ petition is being disposed of.

The petitioner claims to be nephew of one T. Bali Reddy. The said Bali Reddy was assigned land in Survey No.160-3 admeasuring Acs.1.27 of Peddakotla village in Tadimarri Mandal of Ananthapur District. The second respondent purporting to obey the orders of the first respondent, directed the petitioner to be present when the Mandal Surveyor would take possession of the land in Survey No.160-3. The said notice dated 16.8.2003 reads as under:

N O T I C E

As per the request application of the residents of Pedakotla village, Tadimarri Mandal for demarcation of the Rashta and to take possession in Sy. No.160-3 and as per the orders in Rc.No.1158/B/03 dated 12.8.2003 of the Revenue Divisional Officer and as per the orders in Rc.No.167/B/03 dated 16.8.2003 of the Mandal Revenue Officer, Tadimarri, accordingly the Mandal Surveyor would come and demarcate and take possession of the land in Sy. No.160-3 on 21.8.2003 at 2.30 PM. Hence this is to inform you should come and present at the above said Survey No.160-3 in time.

Sd/- MANDAL SURYOR

TADIMARRI.

The said notice is assailed in the writ petition. It is contended by the learned Counsel for the petitioner that the petitioner and five others filed O.S.No.262 of 2002 on the file of the Junior Civil Judge, Dharmavaram for a declaration that the plaintiffs have the title over the suit land and for permanent injunction. The said Civil Court passed an order directing the *status quo* to be maintained. Therefore, the learned Counsel would submit that the impugned order is contrary to the orders passed by the Civil Court. Secondly, it is urged that when the land in Survey No.160-3 is to be

converted into Rashta (pathway), no notice was issued to the petitioner, which is bad in law.

The learned Assistant Government Pleader for Revenue submits that the land was initially assigned to Bali Reddy, who died issue less and that the petitioner has forcibly occupied the land. As the land is required to provide public pathway, notice was issued to the petitioner to be present when the land is demarcated for the said purpose. The learned Assistant Government Pleader, however, does not deny that the decision by the Revenue Divisional Officer as well as the Mandal Revenue Officer is not preceded by any notice to the petitioner with regard to the claim of the petitioner as legal heir of original assignee.

It is now well settled that a person, who is in possession of the Government land, cannot be evicted unless and until procedure contemplated under Board Standing Orders is followed. If the land in possession of a person, is assigned land, a proper enquiry is to be made under the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity) as to whether such person is a legal heir of the assignee or he is a subsequent alienee of the assignee, in which event, it is always open to the Mandal Revenue Officer to resume the land after following the due process of law, as contemplated under the said Act. Both these are absent in this writ petition, and therefore, it was improper for the Mandal Revenue Officer to send the Mandal Surveyor to take possession of the land.

The writ petition, for the above brief reasons, is allowed giving liberty to the respondent officials to take appropriate action keeping in view the observations made herein above. Pending such action, the petitioner shall not change the use of the land. No order as to costs.

_____

September 20, 2004. **V.V.S. RAO, J**

YS

To

1. The Revenue Divisional Officer,

Dharmavaram, Ananthapur District.

2. The Mandal Revenue Officer,

Tadimarri Mandal, Ananthapur District.

3. The Mandal Revenue Inspector,

Office of the Mandal Revenue Office,

Tadimarri Mandal, Ananthapur District.

4. 2CCs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad (O.U.T)

5. 2CD copies.